

815 KAR 25:100. Alternative dispute resolution and mediation program.

RELATES TO: KRS 227.550, 227.640(3)

STATUTORY AUTHORITY: KRS 227.640(3), 227.590(1)

NECESSITY FUNCTION AND CONFORMITY: KRS 227.640(3) requires the office to provide for a dispute resolution process that may be used prior to a formal hearing under KRS Chapter 13B. KRS 227.590(1) requires the board to promulgate administrative regulations to effectuate the provisions of KRS 227.550 to 227.660. EO 2009-535, effective June 12, 2009, reorganized the Office of Housing, Buildings and Construction as the Department of Housing, Buildings and Construction, and established the commissioner, rather than the executive director, as the head of the department. This administrative regulation establishes the requirements for dispute resolution using the process of mediation.

Section 1. Definitions. (1) "Board" is defined by KRS 227.550(1).

(2) "Certified installer" means an individual certified to install manufactured housing pursuant to 815 KAR 25:080.

(3) "Manufacturer" is defined by KRS 227.550(9).

(4) "Retailer" is defined by KRS 227.550(4).

Section 2. Establishment of the Kentucky Manufactured Housing Certification and Licensure Board Mediation Program. The board shall administer the Kentucky Manufactured Housing Certification and Licensure Board Mediation Program to comply with KRS 227.640(3).

Section 3. Eligibility for Mediation. (1) A manufacturer, certified installer, or retailer of manufactured housing whose application, certification, or license is subject to disciplinary action under KRS 227.640 may request mediation prior to the convening of a formal hearing under KRS Chapter 13B.

(2) A request to mediate shall be in writing and shall be submitted to the board.

(3) Upon receipt of the request to mediate, the board shall forward the request to the Office of the Attorney General.

Section 4. Mediation Procedures. (1) Mediations shall be conducted by Office of the Attorney General mediators.

(2) Mediations shall be scheduled by the Office of the Attorney General after receipt of the written request to mediate and agreement to participate at times convenient for all participants.

(3) The scheduled mediation may be rescheduled with written approval by participating parties.

(4) If the mediator initially assigned has a documented conflict of interest, the mediator or participants shall request an alternate mediator within the Office of the Attorney General.

(5) If it is determined that a conflict of interest exists between a party and the Office of the Attorney General's mediator, then a mediator shall be selected by the board from the roster maintained by the Administrative Office of the Courts.

(6) Mediation shall proceed only if all parties with full settlement authority are present. It shall be the responsibility of the parties to have the necessary persons present at the mediation.

(7) Participation in the mediation shall constitute an agreement by the parties that all offers of compromise, promises, or statements made in the course of the mediation shall not be offered at any subsequent hearing or trial relating to the subject matter of the dispute unless otherwise discoverable.

(8) The content of the mediation shall remain confidential as permitted by state and federal law.

(9) The mediator shall not be subject to participation or subpoena in subsequent proceedings regarding the matter mediated.

(10) Final mediation agreements shall be prepared by the mediator and signed by the parties.

Section 5. Costs of Mediation. Cost of mediations conducted pursuant to this administrative regulation shall be divided equally among all parties participating in the mediation. (36 Ky.R. 955; 1227; 1-4-2010.)